IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.T.SANKARAN

FRIDAY, THE 1ST DECEMBER 2006 / 10TH AGRAHAYANA 1928

Crl.Rev.Pet.No. 4252 of 2006()

CRL.A.NO.354/2006 OF THE COURT OF SESSION, KOZHIKODE DIVISION
M.C.NO.6/2006 IN C.C.NO.560/2004 OF THE JUDICIAL MAGISTRATE OF THE FIRST CLASS II, THAMARASSERY.

REVISION PETITIONERS: APPELLANTS/RESPONDENTS:
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1. KANNICHADIKUZHIYIL ABDU, S/O.MAMMED,
AGED 48 YEARS, KODIYATHUR AMSOM, DESOM,
KOZHIKODE TALUK.

2. KEERIYADATH ABDUL SALAM, S/O.KUTTIHASSAN
AGED 45 YEARS, KODIYATHUR AMSOM, DESOM,
KOZHIKODE TALUK.

BY ADV. SRI.SUNNY MATHEW

RESPONDENTS: RESPONDENT/PETITIONER:

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.KAMMAPPU

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 01/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.T. SANKARAN, J.

CRL.R.P.NO. 4252 OF 2006

Dated this the 1st day of December,2006

O R D E R

The petitioners stood as sureties for Thajudheen, the seventh accused in C.C.No.560 of 2004, on the file of the Court of the Judicial Magistrate of the First Class II, Thamarassery. Thajudheen failed to appear and the case against him was split up. Proceedings were initiated against the petitioners/sureties under Section 446 of the Code of Criminal Procedure. They had executed bond for Rs.10,000/- each for the release of Thajudheen on bail. The learned Magistrate forfeited the bond and imposed a penalty of Rs.10,000/- each on the petitioners. The petitioners challenged the order of the trial court in Criminal Appeal. At the time of hearing of the appeal, the Appellate Court put a query to the counsel appearing for the petitioners herein as to

whether the petitioners would be able to produce the seventh accused before the trial court and the counsel answered in the negative. The counsel stated so because Thajudheen had gone abroad. The Appellate Court also noticed that instances of the accused persons absconding and the proceedings being entered in L.P.Register are on the increase. For these reasons, the Appellate Court dismissed the appeal.

2. Heard the counsel for the petitioners and the Public Prosecutor. Certified copy of the order dated 13.11.2006 in C.M.P.No.4704 of 2006 in C.C.No.560 of 2004 is produced before me for perusal to show that Thajudheen subsequently appeared before the trial court on 13.11.2006 and he was released on bail. It is submitted by the learned counsel for the petitioners that it is too harsh to impose penalty of Rs.10,000/- on the petitioners, in the facts and circumstances of the

case and particularly when the seventh accused, for whom the petitioners stood as sureties, appeared before the trial court. Taking note of the subsequent events and also the facts and circumstances of the case, I am inclined to reduce the penalty to Rs.4,000/- each.

The Criminal Revision Petition is allowed in part and while confirming the order passed by the learned Magistrate to forfeit the bond executed by the petitioners and to impose penalty, the quantum of penalty is reduced to Rs.4,000/- each. In all other respects, the order dated 4.5.2006, passed by the trial court shall be in force. The petitioners are granted one month's time to pay the penalty.

(K.T.SANKARAN)
Judge

ahz/

K.T.SANKARAN, J.

CRL.M.C.NO. OF

O R D E R

September, 2006